

**REMARKS**

Applicants respectfully request reconsideration of the present application and claims in light of the remarks presented herein. Claims 1-20 are pending.

**Rejections under 35 U.S.C. §112, First Paragraph**

Claims 1-20 stand rejected under 35 U.S.C. §112, first paragraph. The Examiner presented two separate rejections as described below.

In the first instance, the Examiner asserts that "the specification, while being enabled for cream cheese and Neufachattel cheese, does not reasonably provide enablement for any and all natural cheeses." Although Applicants disagree with the Examiner, the two independent claims have been amended to specify that the natural cheese used is either cream cheese or Neufachattel cheese in order to advance prosecution of this case. Of course, Applicants reserve the right to file an appropriate continuing application to cover other natural cheeses. Applicants respectfully submit that this rejection has been overcome and request that this rejection be withdrawn.

In the second instance, the Examiner asserts that claims 1-20 are not enabled since "Applicant does not teach what is encompassed by 'soft and easily blendable.'" Applicants respectfully disagree. Applicants respectfully assert (1) that one of ordinary skill in the art would understand the term used in the claims based on the teachings of the specification and the general knowledge of the art and (2) that the claims are fully enabled.

The phrase is fully described and explained in the specification (p. 4, line 29, through p. 5, line 9) as follows:

"The non-standard cheese products of this invention are soft and easily blendable with conventional food ingredients in a food processing and manufacturing line. For purposes of this invention, 'soft' as applied to the non-standard cheese products of this invention relates to a product which is pumpable in conventional food processing lines; such a 'soft' product will generally have a texture of about 1000 to about 5000g, and more preferably

of about 2500 to about 4000g, at about 40°F. For purposes of this invention, 'easily blendable with conventional food ingredients'" is intended to mean that the non-standard cheese products can be easily mixed with other food ingredients using standard mixing devices or techniques normally used in convention food processing lines; generally, such mixing involves low or moderate shear."

Moreover, Applicants provide working examples 1-5 which clearly enable the invention; a comparative example which demonstrate how other approaches failed to provide such a "soft and easily blendable" material is also provided.

Additionally, Applicants respectfully submit that one of ordinary skill in the art would clearly understand and appreciate the use of the phrase "soft and easily blendable" in the context of food manufacturing processes. Applicants clearly teach what is encompassed by "soft and easily blendable" and how such a material is prepared. Indeed, several of the working examples provide texture, yield stress, and viscosity data to provide even further guidance and support for the meaning of this phrase.

Applicants respectfully request that this rejection be withdrawn.

**Rejections under 35 U.S.C. §1112, Second Paragraph**

Claims 1-20 also stand rejected under 35 U.S.C. §112, second paragraph. The Examiner asserts that the claims are indefinite as to the use of the phrase "soft and easily blendable" and alleges that this phrase does not clearly set forth limits on the claims.

Applicants respectfully disagree. As noted above, Applicants have provided the following definition and explanation of the terms included in this phrase:

"The non-standard cheese products of this invention are soft and easily blendable with conventional food ingredients in a food processing and manufacturing line. For purposes of this invention, 'soft' as applied to the non-standard cheese products of this invention relates to a product which is pumpable in conventional food processing lines; such a 'soft' product will generally have a texture of about 1000 to about 5000g, and more preferably of about 2500 to about 4000g, at about 40°F. For purposes of this invention, 'easily blendable with conventional food ingredients'" is intended to mean that

the non-standard cheese products can be easily mixed with other food ingredients using standard mixing devices or techniques normally used in convention food processing lines; generally, such mixing involves low or moderate shear." P. 4, line 29, through p. 5, line 9.

Clearly the phrase does place limits on the claims and one of ordinary skill in the art (generally that of food manufacturer) would not find the phrase indefinite.

Additionally, Applicants respectfully submit that one of ordinary skill in the art would clearly understand and appreciate the use of the phrase "soft and easily blendable" in the context of food manufacturing processes. Applicants clearly teach what is encompassed by "soft and easily blendable" and how such a material is prepared. Indeed, several of the working examples provide texture, yield stress, and viscosity data to provide even further guidance and support for the meaning of this phrase.

Applicants respectfully request that this rejection also be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully submits that all rejections have been overcome. Applicant respectfully requests that the Examiner allow the pending claims and pass the present application to issue. If the Examiner believes that a telephonic or personal interview would be helpful to terminate any issues which may remain in the prosecution of the Application, the Examiner is requested to telephone Applicants' attorney at the telephone number set forth herein below.

The Commissioner is hereby authorized to charge any additional fees which may be required in this Application to Deposit Account No. 06-1135.

Respectfully submitted

FITCH, EVEN, TABIN & FLANNERY

By: \_\_\_\_\_

  
Richard A. Kaba  
Registration No. 30,562

Date: August 12, 2003

120 South La Salle Street  
Suite 1600  
Chicago, IL 60603-3406  
(312) 577-7000